

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

Date Filed

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1 EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a Name of Employer

Gopher Resources

b Tel No 651-442-3310

c Cell No

f Fax No

d Address (Street, city, state, and ZIP code)

1638 Yankee Doodle Road
Eagan MN 55122

e Employer Representative

Human Resources Department

g e-Mail

h Number of workers employed
168

i Type of Establishment (factory, mine, wholesaler, etc.)

Factory

j Identify principal product or service

lead pigs and other products

k The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On about July 14, 2013, I was suspended in retaliation for engaging in union activities including investigation and filing grievances (b) (6), (b) (7)(C).

3 Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

4a Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b Tel No (b) (6), (b) (7)(C)

4c Cell No

4d Fax No

4e e-Mail

5 Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) N/A

6 DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief

Tel No

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

By (signature of representative of person making charge)

(b) (6), (b) (7)(C), an individual

(Print/type name and title or office, if any)

Office, if any, Cell No

Fax No

e-Mail

Address

(b) (6), (b) (7)(C)

July 17, 2013

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 18
330 2ND AVE S
STE 790
MINNEAPOLIS, MN 55401-2221

Agency Website: www.nlrb.gov
Telephone: (612)348-1757
Fax: (612)348-1785

July 17, 2013

GOPHER RESOURCES
1638 YANKEE DOODLE ROAD
EAGAN, MN 55122

Re: GOPHER RESOURCES
Case 18-CA-109324

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney ABBY E. SCHNEIDER whose telephone number is (612)348-1787. If this Board agent is not available, you may contact Supervisory Attorney NICHOLE L. BURGESS-PEEL whose telephone number is (612)348-1775.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be

considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Marlin Osthus". The signature is written in a cursive, flowing style.

MARLIN O. OSTHUS
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 18
330 2ND AVE S
STE 790
MINNEAPOLIS, MN 55401-2221

Agency Website: www.nlrb.gov
Telephone: (612)348-1757
Fax: (612)348-1785

July 17, 2013

(b) (6), (b) (7)(C)

Re: GOPHER RESOURCES
Case 18-CA-109324

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on July 17, 2013 has been docketed as case number 18-CA-109324. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge will be investigated by Field Attorney ABBY E. SCHNEIDER whose telephone number is (612)348-1787. If the Board agent is not available, you may contact Supervisory Attorney NICHOLE L. BURGESS-PEEL whose telephone number is (612)348-1775.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website www.nlrb.gov. However, the Agency will continue to accept timely filed

paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, reading "Marlin O. Osthus". The signature is written in a cursive, flowing style with a large initial "M" and a long horizontal stroke at the end.

MARLIN O. OSTHUS
Regional Director

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Gopher Resources, LLC

and

(b) (6), (b) (7)(C)

CASE 18-CA-109324

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Gopher Resources, LLC

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Richard W. Pins

MAILING ADDRESS: 150 South 5th Street, Suite 2300, Minneapolis, MN 55402

E-MAIL ADDRESS: richard.pins@leonard.com

OFFICE TELEPHONE NUMBER: 612.335.7007

CELL PHONE NUMBER: 612.966.1805 FAX: 612.335.1657

SIGNATURE: _____

(Please sign in ink.)

DATE: July 22, 2013

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



United States Government
NATIONAL LABOR RELATIONS BOARD

Abby Schneider, Attorney
330 South Second Avenue, Suite 790
Minneapolis, MN 55401

Office: (612) 348-1757
Direct: (612) 348-1787
Fax: (612) 348-1785
E-mail: abby.schneider@nlrb.gov

July 25, 2013
Sent via U.S. mail

(b) (6), (b) (7)(C)

Re: Gopher Resources
Case No. 18-CA-109324

Dear (b) (6), (b) (7)(C):

As you know from the Regional Director's letter to you dated July 17, and the voicemail messages I left for you on July 18, July 22, and July 25, I have been assigned to investigate the above-captioned charge, which you filed with this agency on July 17, 2013.

In my last two voicemail messages, I asked that you return my call and arrange to provide an affidavit no later than Wednesday, July 31. That date is two weeks after the date on which you filed your charge. If I do not hear from you so that your affidavit can be scheduled by that date, I will recommend that the Regional Director dismiss your charge for lack of cooperation.

You can reach me at 612-348-1787 or at Abby.Schneider@nlrb.gov

Very truly yours,

/s/

Abby Schneider
Attorney



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 18
330 2nd Ave S Ste 790
Minneapolis, MN 55401-2214

Agency Website: www.nlr.gov
Telephone: (612)348-1757
Fax: (612)348-1785

August 2, 2013

(b) (6), (b) (7)(C)

Re: GOPHER RESOURCES
Case 18-CA-109324

Dear (b) (6), (b) (7)(C):

We have carefully considered your charge that GOPHER RESOURCES has violated the National Labor Relations Act.

Decision to Dismiss: On July 17, 2013, you filed a charge in the above-captioned matter alleging that the Employer suspended you in violation of the Act. On that same date, by letter from the undersigned, you were provided with the name and contact information for the Board agent investigating your case, you were requested to promptly submit evidence in support of the charge, and you were advised that if you failed to cooperate, your charge might be dismissed. Subsequently, the Board agent assigned to investigate your charge called and left voice messages for you on July 18, 22 and 25. You failed to respond. She sent you a letter dated July 25 and unsuccessfully attempted to telephone you on July 30. In both the letter and the voicemails, the Board agent advised you that if she did not hear from you by July 31, she would recommend dismissal of your charge for lack of cooperation. Because you have not made any effort to contact the Board agent and have not provided any evidence in support of your charge, it appears that you are not prepared to proceed at this time. Therefore, further proceedings are not warranted, and I am dismissing your charge due to your lack of cooperation.

Should you choose to file at a later date when you are prepared to present your evidence, please keep in mind that Section 10(b) of the Act precludes the National Labor Relations Board from determining the merits or seeking relief for any alleged violations that occur more than six months prior to the filing of a charge. Therefore, you must file a charge within six months of the date you became aware of the conduct you allege violates the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlr.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision to dismiss your charge was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, or by delivery service. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. To file an

appeal by mail or delivery service, address the appeal to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **August 16, 2013**. If you file the appeal electronically, we will consider it timely filed if you send the appeal together with any other documents you want us to consider through the Agency's website so the transmission is completed by **no later than 11:59 p.m. Eastern Time** on the due date. If you mail the appeal or send it by a delivery service, it must be received by the Office of Appeals in Washington, D.C. by the close of business at **5:00 p.m. Eastern Time** or be postmarked or given to the delivery service no later than August 15, 2013.

Extension of Time to File Appeal: Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. A request for an extension of time may be filed electronically, by fax, by mail, or by delivery service. To file electronically, go to www.nlrb.gov, click on **E-File Documents**, enter the NLRB Case Number and follow the detailed instructions. The fax number is (202)273-4283. A request for an extension of time to file an appeal **must be received on or before August 16, 2013**. A request for an extension of time that is mailed or given to the delivery service and is postmarked or delivered to the service before the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed electronically, a copy of any request for extension of time should be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Marlin O. Osthus

MARLIN O. OSTHUS
Regional Director

Enclosure

cc GENERAL COUNSEL
 OFFICE OF APPEALS
 FRANKLIN COURT BUILDING
 NATIONAL LABOR RELATIONS BOARD
 1099 14TH STREET, NW
 WASHINGTON, DC 20570

RICHARD PINS, ATTORNEY
LEONARD STREET AND DEINARD
150 S 5TH ST STE 2300
MINNEAPOLIS, MN 55402-4223

GOPHER RESOURCES
1638 YANKEE DOODLE ROAD
EAGAN, MN 55122

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
Room 8820, 1099 - 14th Street, N.W.
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 18
Suite 790
330 South Second Avenue
Minneapolis, MN 55401-2221

Office: (612) 348-1757
Fax: (612) 348-1785
www.nlrb.gov

April 29, 2009

Cassie Sober
Gopher Resource
3385 South Highway 149
Eagan, MN 55121

Re: GOPHER RESOURCE
Case 18-CA-19031

Dear Sir or Madam:

A charge has been filed with this office, alleging that you have violated the National Labor Relations Act. You are hereby served with a copy of the charge.

The investigation of this charge will be conducted by **Field Examiner Jennifer A. Hadsall** whose telephone number and e-mail address are **(612)348-1784** and **Jennifer.Hadsall@nlrb.gov**.

FILING DOCUMENTS WITH REGIONAL OFFICES: The Agency is moving toward a fully electronic records system. To facilitate this important initiative, the Agency strongly urges all parties to submit documents and other materials (except unfair labor practice charges and representation petitions) to Regional Office through the Agency's E-Filing system on its website: <http://www.nlrb.gov> (See Attachment to this letter for instructions). Of course, the Agency will continue to accept timely filed paper documents.

HOW TO ASSIST THIS OFFICE IN THE INVESTIGATION

1. Promptly submit a written account of your organization's position with respect to the allegations in the charge. Include in your submission a description of the events that occurred at the time of the allegations of the charge.
2. Complete the appropriate sections and promptly submit the enclosed Questionnaire on Commerce Information. However, in the event this charge is against a labor organization, the Questionnaire need not be completed or submitted because under the Act the standard for asserting jurisdiction over labor organizations differs from the standard applicable to employers.

3. You have a right to be represented by counsel or other representative in this proceeding. In the event you choose to have a representative appear on your behalf and/or you wish to designate that representative as your agent for service of documents, that representative should complete and submit Form NLRB-4701. A copy of the form is enclosed for your use.
4. In the event the Board agent assigned to investigate this charge asks your representative or you to provide evidence, please promptly present evidence relevant to the investigation. Full and complete cooperation includes providing witnesses who answer questions related to the allegations of the charge, who agree that their answers may be included in sworn statements in affidavit form, and who provide documents or records requested by the Board agent. It is important that you fully cooperate during the investigation to avoid unnecessary litigation.
5. We have developed procedures for assisting persons with limited English proficiency in order to ensure meaningful access to the services we provide. Please contact the Board agent who is assigned to investigate this case if you or others would like more information about such assistance.

***Position Statements or Other Evidence Submitted by You
in Lieu of Affidavits by the Board Agent***

If the Board agent assigned this matter asks to meet with witnesses so that those witnesses may provide sworn affidavits, I strongly urge you to cooperate. Your submission of a position statement, memorandum or of affidavits taken by someone other than the Board agent does not constitute full cooperation. Also, you should know that we will not honor any efforts to limit our use of any evidence or position statements that you provide. Thus, anything you submit may be introduced as evidence if a hearing is held before an administrative law judge.

THE IMPACT OF THE FREEDOM OF INFORMATION ACT

Under the Freedom of Information Act, we must promptly disclose to the public all unfair labor practice charges and representation petitions docketed by this office. As a result, organizations or persons who have reviewed this material may contact you and suggest that they should represent you before our Agency. However, no organization or person seeking your business has any "inside knowledge" or favored relationship with this Agency, and any information they have regarding this matter is the result of the fact that we are required to make it available to members of the public.

We may also be required to disclose materials you submit to persons or organizations requesting them under the Freedom of Information Act. There are exemptions that permit us to refuse to disclose confidential financial information or personal information

October 26, 2019

that is private. The case file will be available for some period of years after the case closes because we are required by the Federal Records Act to keep copies of documents contained in investigative files.

The Agency has published customer service standards concerning the processing of unfair labor practice cases. Those standards are available on the Agency's website under "Public Notices" and are called "Our Service, Our Standards." Finally, enclosed is a copy of Form NLRB-4541 related to our investigative and voluntary adjustment procedures.

I would greatly appreciate your cooperation with our investigation so that all of the facts of the case may be considered.

Very truly yours,

Robert W. Chester
Regional Director

RWC/z

cc:

(b) (6), (b) (7)(C)

A large black rectangular redaction box covering the bottom portion of the distribution list.



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 18
Suite 790
330 South Second Avenue
Minneapolis, MN 55401-2221

Office: (612) 348-1757
Fax: (612) 348-1785
www.nlrb.gov

April 29, 2009

(b) (6), (b) (7)(C)

Re: GOPHER RESOURCE
Case 18-CA-19031

Dear Sir or Madam:

The charge that you filed with this office has been docketed under the case name and number indicated above. **Field Examiner Jennifer A. Hadsall** is assigned to investigate the charge, and can be contacted at **(612)348-1784** and by e-mail at **Jennifer.Hadsall@nlrb.gov**.

Unless you have already done so, within **seven days** please submit a detailed account of the facts that form the basis of your charge. Your account should include the names, addresses and telephone numbers of witnesses, if any, who can support your charge, and a brief description of the facts you expect each witness to provide.

It is also your responsibility to submit all evidence you have in support of the charge and to promptly make yourself and your witnesses available for interview, should you be asked to do so.

Your failure to meet the above responsibilities could result in the dismissal of your charge without further investigation.

Very truly yours,

Robert W. Chester
Regional Director

RWC/z

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Gopher Resources Corp.
Employer

and

(b) (6), (b) (7)(C), an Individual
Petitioner

CASE 18-CA-19031

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Gopher Resources Corp.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Richard W. Pins

MAILING ADDRESS: 150 South 5th Street, Suite 2300, Minneapolis, MN 55402

E-MAIL ADDRESS: richard.pins@leonard.com

OFFICE TELEPHONE NUMBER: 612.335.7007

CELL PHONE NUMBER: 612.955.1805 FAX: 612.335.1657

SIGNATURE: 

DATE: 5/11/09

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 18
330 South Second Avenue
Suite 790
Minneapolis, MN 55401-2221

Office: (612) 348-1757
Fax: (612) 348-1785
www.nlrb.gov

May 12, 2009

(by e-mail and US mail)

Richard W. Pins, Attorney
Leonard, Street and Deinard, PA
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402

Re: Gopher Resource
Case 18-CA-19031

Dear Mr. Pins:

This is to confirm our conversation of yesterday, in which you informed me your client did not wish to excuse the grievance timelines in order to have the above matter deferred. As such, please submit a position statement on behalf of Gopher Resources Corp. The charge alleges that employee (b) (6), (b) (7)(C) was removed from (b) (6), (b) (7)(C) position in retaliation for (b) (6), (b) (7)(C) union activity. According to the Charging Party (b) (6), (b) (7)(C) was informed that (b) (6), (b) (7)(C) demotion was because (b) (6), (b) (7)(C) was out of work too often on Union time (approx. 35-36 days). Further, the Charging Party contends that this action was in retaliation for (b) (6), (b) (7)(C) engaging in (b) (6), (b) (7)(C). Specifically, the Charging Party contends that the Employer was hostile toward (b) (6), (b) (7)(C) for forcing them to post open positions, including a C shift position. According to the Charging Party, the Employer responded to (b) (6), (b) (7)(C) demand to post position by saying, "If you force me to post that C shift position, I'm going to start making changes." This occurred approximately 3-4 months before (b) (6), (b) (7)(C) was demoted.

In your response to this allegation, please explain why the Employer contends (b) (6), (b) (7)(C) was removed from (b) (6), (b) (7)(C) position (demoted). If others have been demoted from a (b) (6), (b) (7)(C) position, please advise and state the reason for those demotions. Please provide a copy of (b) (6), (b) (7)(C) personnel file. If (b) (6), (b) (7)(C) demotion was based on performance issues, please provide copies of any discipline (b) (6), (b) (7)(C) has received as a result of said performance issues. Also, if this is a performance issue, provide copies of all discipline issued to employees in the last two years (May 1, 2007 through current) for performance related matters. Copies of any related policies should also be submitted. Lastly, please provide a copy of the Collective Bargaining Agreement between Teamsters Local 120 and the Employer.

This response should be submitted by no later than, **Friday, May 22, 2009**. Should you have any questions or concerns, do not hesitate to call me at 612-348-1784.

Very truly yours,

Jennifer A. Hadsall
Field Examiner

JAH/jah



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 18
330 South Second Avenue
Suite 790
Minneapolis, MN 55401-2221

Office: (612) 348-1757
Fax: (612) 348-1785
www.nlrb.gov

June 29, 2009

Fax Only

(b) (6), (b) (7)(C)
Teamsters Local 120
9422 Ulysses Street NE #120
Blaine, Minnesota 55343

Re: Gopher Resource
Case 18-CA-19031

Dear **(b) (6), (b) (7)(C)**:

Enclosed is the affidavit you provided during our telephone conversation of June 29, 2009. Please review the affidavit, correcting anything you feel is not accurate. When making corrections, cross out the erroneous section of text and write in the correction. Please initial all changes you make to the document. Please also initial the bottom of every page to indicate that you have read and reviewed the page for accuracy. The last page of the affidavit requires a signature and date. Note that the last page also requires initials at the bottom of the page. Once you have reviewed, initialed, signed and dated the affidavit, please return it to this office via fax and regular mail. Please feel free to call me with any questions or concerns you may have 612-348-1784.

Very truly yours,

Jennifer A. Hadsall
Board Agent

JAH/jah



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 18
330 South Second Avenue
Suite 790
Minneapolis, MN 55401-2221

Office: (612) 348-1757
Fax: (612) 348-1785
www.nlrb.gov

July 2, 2009

(b) (6), (b) (7)(C)

Re: Gopher Resource
Case No. 18-CA-19031

Dear (b) (6), (b) (7)(C):

The Regional Director has carefully considered your charge against Gopher Resource alleging they violated the National Labor Relations Act and has decided to dismiss the charge, absent withdrawal. The charge alleged the Employer had demoted you from you (b) (6), (b) (7)(C) position in retaliation for you union activities. The basis of the Regional Director's no merit determination was that the evidence failed to establish that the Employer's motivation in demoting you from the (b) (6), (b) (7)(C) position was to retaliate against you for union activity. You have been a (b) (6), (b) (7)(C) for a long time and there was no evidence that any activity you recently engaged in was a source of hostile contention for which the Employer would have retaliated against you. In regards to your claim that the Employer stated you were demoted because of the amount of time you were out for union business, the evidence reflects that it was not your union time that was an issue, it was the totality of your leave both for union business and personal business (Vacation, Sick, Unexcused Absences) that resulted in the Employer's decision to demote you. The evidence fails to establish an unlawful motive or animus. For these reasons, the Regional Director concluded there was no merit to the charge and it should be dismissed, absent withdrawal.

At this time you have three options. You may voluntarily withdraw the charge or choose either a short form or long form dismissal. If you choose to withdraw the charge you will not have the right to appeal the decision to the General Counsel of the National Labor Relations Board. If you choose not to voluntarily withdraw the charges, the Regional Director will dismiss the charge. In that case, you have the option of choosing either a short form dismissal or long form dismissal. The short form dismissal states that the Regional Director is dismissing your case but it does not provide justification for the dismissal other than there is insufficient evidence to support the charge. The long form dismissal provides reasons supporting the Regional Director's decision to dismiss your

case (similar to that listed above in paragraph one). Under either the short form or long form dismissal, you have the right to appeal the decision to the General Counsel of the National Labor Relations Board. The disposition letter, whether it is for withdrawal or dismissal, is issued to all parties involved in the charge.

Please respond to this matter by noon on Thursday, July 11, 2009 as to whether you will voluntarily withdraw the charge or what form of dismissal you would prefer. If you do not respond by noon on July 11, 2009, a recommendation will be made to the Regional Director that you case be dismissed with a short form dismissal. I will be out of the office from July 6 through July 31, 2009. In my absence, please feel free to contact my Supervisor Pamela Scott who will be able to assist you. Pamela is familiar with your case, as she supervised it. Her direct number is 612-348-1788.

Sincerely,

Jennifer A. Hadsall
Board Agent

JAH/jah

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

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APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1099 14th Street N W Room 8820
Washington, D C 20570

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in.

(b) (6), (b) (7)(C)

Case Name(s)

18-CA-19031

Case No(s). (If more than one case number include all case numbers in which appeal is taken.)

(b) (6), (b) (7)(C)

(Signature)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

July 22, 2009

Re: Gopher Resource
Case No. 18-CA-19031

(b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C):

Receipt of your appeal in the above matter is acknowledged. Upon receipt of the investigative file from the Regional Director, the appeal will be assigned for processing. You may be assured your appeal will receive careful consideration and that you and all interested parties will be advised, as soon as possible, of our decision.

Sincerely,

Ronald Meisburg
General Counsel

By _____
Yvonne T. Dixon, Director
Office of Appeals

cc: Marlin Osthus, Regional Director
National Labor Relations Board
Towle Bldg., Suite 790
330 South 2nd Avenue
Minneapolis, MN 55401

Richard W. Pins, Attorney
Leonard, Street and Deinard, PA
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402

Cassie Sober
Gopher Resource
3385 South Highway 149
Eagan, MN 55121

crk



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

October 8, 2009

Re: Gopher Resource
Case No. 18-CA-19031

(b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C):

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered.

The appeal is denied substantially for the reasons set forth in the Regional Director's letter of July 7, 2009. The evidence is insufficient to establish that the Employer unlawfully discriminated against you or demoted you because of your status as a (b) (6), (b) (7)(C) or because of a grievance you filed regarding posting a position for warehouse work, in violation of Section 8(a)(3) of the Act. Accordingly, further proceedings are unwarranted.

Sincerely,

Ronald Meisburg
General Counsel

By _____
Yvonne T. Dixon, Director
Office of Appeals

cc: Marlin Osthus, Regional Director
National Labor Relations Board
Towle Bldg., Suite 790
330 South 2nd Avenue
Minneapolis, MN 55401

Richard W. Pins, Attorney
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